



Pathways to Employment

The Employment First Act – Putting Policy into Practice

Delaware's Proposal for an Employment-Focused 1915(i) HCBS State Plan Option

*Forging a path so that all citizens have an
equal opportunity to lead independent and productive lives*

October, 2013



Introduction

As Chairman of the National Governors Association (NGA), in July 2012 Governor Markell launched an initiative to improve employment opportunities for individuals with disabilities and to support businesses to find skilled workers. This initiative, *A Better Bottom Line: Employing People with Disabilities*, provides tangible steps state leaders can take to improve employment outcomes and create more employment opportunities for people with disabilities.

Two of the goals of the Governor's initiative are:

- Preparing youth with disabilities for careers that use their full potential, providing employers with a pipeline of skilled workers; and
- Making the best use of limited resources to advance employment opportunities for people with disabilities.

Delaware is making strides toward these goals. As a key component of the State's overall workforce strategy, Delaware is building an innovative program to increase the options available to support low income individuals with disabilities who want to work. This effort, Pathways to Employment (Pathways), brings together a number of State agencies around the common goal of ensuring that Delawareans, regardless of their disability, have the option and supports they need to work.

Through the use of a Section 1915(i) Home- and Community-Based Services (HCBS) State Plan Amendment (SPA), Delaware seeks to design the Pathways program that:

- Serves low income individuals, across disabilities, who have a desire to work in a competitive work environment;
- Provides individually tailored services for individuals with visual impairments, physical disabilities, intellectual disabilities, autism spectrum disorder and Aspergers to help them obtain or sustain competitive employment;
- Offers an array of services that will support individuals to explore and plan career paths and build career readiness. Pathways will include important services, such as on-the-job supports, transportation, personal care, orientation and mobility training, assistive technology, and other services to help individuals maintain employment based on their specific needs;
- Stretches limited state dollars by partnering with the Federal government in the provision of these services – increasing individual independence and strengthening the State's workforce; and
- Provides a strong foundation for Delaware's ongoing efforts to ensure that individuals with disabilities have a clear path to employment now and into the future.

A 1915(i) HCBS SPA presents an unprecedented opportunity within Medicaid to serve individuals based on need, rather than solely on diagnosis. In a separate, but related effort, Delaware is also working to develop employment supports and other services for individuals with mental health support needs through evidence-based practices to support their Olmstead settlement.

In advance of the formal submission, Delaware submits this paper for Centers for Medicare & Medicaid (CMS) review of the intended structure and desired outcomes for the 1915(i).



Background

In July 2013, the national labor force participation for people with disabilities was 20.3% compared with 69.7% of people without disabilities¹, illustrating a key untapped resource for businesses and state economies across the country. In addition to the stark difference in labor force participation, the unemployment rates for individuals with disabilities are generally double that of individuals without disabilities.

Under the leadership of Governor Markell, Delaware is seeking to change that tide. In the summer of 2012, the Governor signed the Employment First Act (HB 319) to provide more people with disabilities the chance to engage in productive employment. Delaware has also begun a number of other initiatives aimed at expanding opportunities to ensure that individuals with disabilities can work and contribute to the State's economy – to the benefit of businesses, State government and individuals with disabilities alike.

In addition to already having an established Medicaid Buy-In program (Medicaid Workers with Disabilities) so individuals with disabilities can work without fear of losing important benefits, Delaware has established a state-funded program, entitled Early Start to ensure that students are provided key tools to transition smoothly from high school to educational opportunities and careers, ensuring educational investments are not lost.

Building upon these successful efforts, Delaware is creating additional employment supports programs to serve transition age individuals across the spectrum of disabilities. Using a Medicaid 1915(i) HCBS SPA., Delaware will implement the Pathways program which will serve individuals, ages 14 to 25 across an array of disabilities, and expand choices and opportunities in Delaware for individuals seeking to enter the job market. Using the 1915(i) HCBS SPA presents a unique opportunity in Medicaid to serve individuals in identified target groups and to structure a cross-disability, employment-focused benefit based on work-related, needs-based criteria.

In addition, through a separate program effectuated through an 1115 waiver amendment, Delaware will offer similar services to gain and maintain employment to individuals with mental health and substance abuse support needs. This effort is a comprehensive effort by the state to meet its Olmstead obligations for individuals with mental health and substance use needs.

In an unprecedented partnership, multiple divisions within Delaware State government have joined forces to develop employment programs, with each division contributing important information on the specific needs of the individuals they serve. While the goal of competitive employment is cross-cutting, the supports needed to effectively meet the needs of the target groups require expertise and knowledge of disability-specific support needs. Pathways is designed to establish common goals, expectations, and opportunities for individuals with disabilities, while providing individually tailored supports, reflective of population-specific considerations, to meet the specific needs of the persons served.

Within the Department of Health and Social Services (DHSS), the following divisions are leading these key efforts:

- Division of Medicaid and Medical Assistance
- Division of Developmental Disabilities Services

¹ Department of Labor, Office of Disability Employment Policy, Disability Employment Statistics, July 2013.



- Division for the Visually Impaired
- Division of Services for Aging and Adults with Physical Disabilities
- Division of Substance Abuse and Mental Health²

In addition to these key partners within DHSS, the State's Department of Labor's Division of Vocational Rehabilitation, Department of Education, as well as local school districts are contributing to the development of this important program. Furthermore, Delaware received information on promising practices from other states through the expertise of the State Employment Leadership Network, as well as additional technical expertise from the National Association of State Directors of Developmental Disabilities Services (NASDDDS).

Eligibility for Pathways to Employment

Pathways will expand the choices available within Delaware for individuals ages 14 to 25 who seek employment opportunities for individualized, competitive jobs. Ensuring seamless transitions from school (high school and post-secondary) to work, and across the array of employment options and supports, Pathways will enable individuals to gain skills needed to obtain and maintain employment, and continue to build their careers.

Delaware's 1915(i) HCBS SPA will serve individuals who are Medicaid eligible. For most individuals, the income eligibility will be the same as under the State Plan³. Pathways will target the following groups:

- Individuals with visual impairments
- Individuals with physical disabilities, which may include individuals with brain injury
- Individuals with intellectual disabilities and individuals with autism spectrum disorder and individuals with Aspergers

The benefit will provide seamless transitions from school into adulthood and will offer opportunities for individuals to explore employment options and subsequent opportunities for growth within their employment choices. For most individuals, the benefit may begin as early as age 14 to inform and complement the individual's transition from school to adulthood, and provide a key bridge from high school to college and/or career. Eventually, with approval from CMS and available state resources, Delaware would like to expand Pathways to include individuals age 25 and older.

Using needs-based criteria that is less stringent than institutional level of care criteria, Delaware will make the benefit available to anyone in the target groups ages 14 to 25 who has a desire to work in a competitive work environment and for which the services provided through the benefit are not otherwise available to the individual under either special education and related services as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16) and (17)) or vocational rehabilitation services available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

Service Delivery

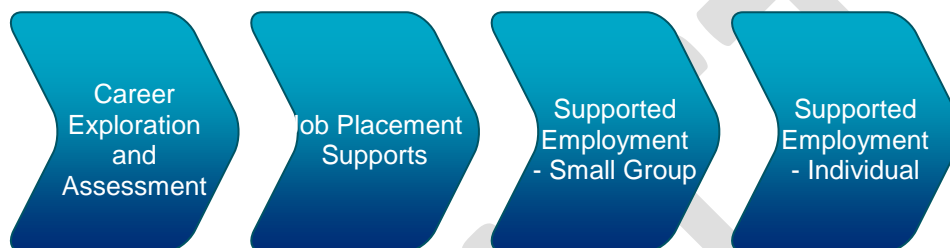
² DSAMH will operate their employment supports through a separate but similar Medicaid authority supporting all aspects of community living including employment, but the principles of Employment First and the supports available will be similar.

³ Individuals in the Special Income Level Group or individuals in the Medicaid for Workers with Disabilities (MWD) group will need to have incomes that do not exceed 150% of Federal Poverty Line.



Pathways will offer a rich continuum of services to assist individuals to build skills needed and to obtain and maintain individualized, competitive employment. The service array provided through Pathways recognizes that each individual may need specific and individualized supports to better position them for ongoing employment. The Pathways to Employment program recognizes natural career trajectories, and will provide individuals with opportunities to nurture changing interests and to build upon skills, strengths, and experience gained through work. Importantly, the service array offered through Pathways is designed to address the disability-specific needs of individuals and to ensure that the available supports can meet their needs. Delaware has specially designed service packages for each of the target groups, from the array included below, to ensure that the right services are available based on population needs.

Pathways will offer the following services to directly prepare individuals for and support them in competitive work environments:



Pathways will also offer an array of ancillary services to provide key supports to enable individuals to be successful in employment situations:



Delaware will provide individuals with the option of hiring their own staff for the provision of personal care. Building upon current and historical experience, Delaware will provide the supports necessary for individuals to serve, at their election, as the employer of record for personal care attendants who will assist them in the workplace. Delaware believes this will provide a strong opportunity for individuals to take a leadership role in the provision of their services. Delaware will utilize existing relationships with two Vendor/Fiscal Employer Agents who will provide both fiscal management activities and information and assistance to support individuals. These entities are the same entities that provide such services for the Diamond State Health Plan Plus (DSHP Plus) program, ensuring seamless coordination for individuals enrolled in the Plus program served through Pathways as well.

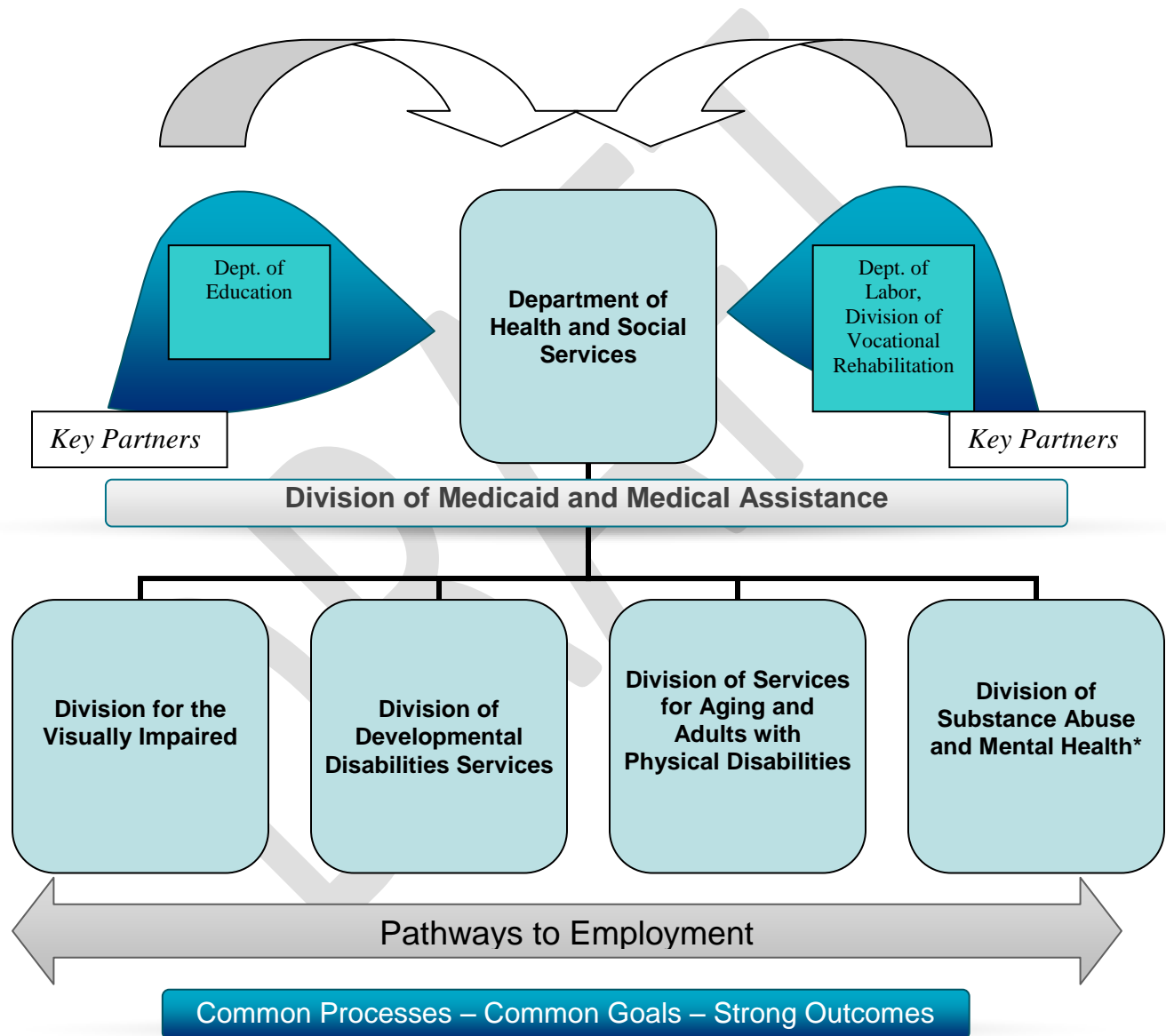
Delaware will work to identify strategies for payment that will reward the completion of milestones and to tie payment to performance as the program evolves.

Program Administration and Quality Improvement

Pathways will be operated as a fee-for-service program administered by the DHSS, the Single State Medicaid Agency. The divisions noted below within DHSS will jointly administer the



program. Using a standard evaluation, enrollment and assessment process, with tailoring for each of the target groups, to determine eligibility and to inform a person-centered care planning approach, DHSS will ensure consistency in operations for each of the target groups, while still maintaining the key expertise needed to effectively meet their needs. Through the established cross-division workgroup, which will provide ongoing oversight for the benefit, the divisions will ensure standards and quality for the administration of the Pathways to Employment program. These entities will also ensure ongoing quality improvement, measuring the efficacy of the overall systems and the effectiveness of individually tailored service strategies.



*DSAMH will operate their employment supports through a separate but similar Medicaid authority supporting all aspects of community living including employment, but the principles of Employment First and the supports available will be similar.

Using a person-centered approach to planning and service delivery, DHSS will utilize planning process that will:



- Provide necessary support to ensure that the individual has a meaningful role in directing the process to the maximum extent possible, is able to make informed choices and decisions, and is able to make decisions regarding who is included in the planning process;
- Be timely and occur at times and locations of convenience to the individual;
- Reflect cultural considerations of the individual;
- Include strategies for solving conflict or disagreement within the process, including clear conflict of interest guidelines for all planning participants;
- Offer choices to the individual regarding the services and supports they receive and from whom; and
- Include a method for the individual to request updates to the plan (if needed in advance of annual updates).

Commensurate with the level of need of the individual and their respective target group, and the scope of services and supports available through Pathways, the person-centered plan will meet all requirements outlined in the proposed regulations for 1915(i)⁴, including that individuals receive services in settings that meet requirements for HCBS. The plan will provide an emphasis on the supports needed by the individual to successfully gain and maintain employment and to seek growth opportunities within their chosen work path.

Individuals performing the evaluation, assessment, and facilitating the person-centered planning process will be free from conflict. In limited circumstances where divisions of State government may also provide certain services, DHSS will establish both administrative firewalls and oversight strategies to ensure that there is no conflict or potential for conflict in the determination of eligibility for both the benefit and for the services offered under the 1915(i) SPA.

Delaware is committed to ensuring that Pathways helps transition age individuals to obtain and maintain jobs, based on their personal goals and preferences. To that end, in addition to the important performance measures related to program administration, fiscal accountability, service planning, qualified providers, and health and welfare, Delaware will explore measures to gauge the efficacy of the services being provided – with employment as the preferred outcome. Delaware will use all of the information gained through discovery to make systemic improvements to the program.

Delaware sees Pathways to Employment as a first steps on an ongoing journey to improve employment opportunities for individuals with disabilities. As the program matures and based on the outcomes we gather, Delaware will explore strategies to further encourage and reward successful employment arrangements and to serve additional individuals through Pathways.

Next Steps

Delaware has begun engagement with an array of stakeholders on the design and implementation of Pathways, and will continue to gather and incorporate the important feedback from those stakeholders. Delaware intends to submit the formal 1915(i) SPA to CMS early in 2014, aiming for a July 2014 effective date.

⁴ CMS 2249-P2